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SPEECH

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HON. C. L. VALLANDIGHAM, OF OHIO,

ON THE

• OHIO BLACK LAWS;

IN REPLY

TO MR. GILMER, OF NORTH CAROLINA;

IN THE HOUSE OF REPRESENTATIVES, FEBRUARY 2, 1859.

WASHINGTON:

PRINTED AT THE CONGRESSIONAL GLOBE OFFICE.

1859.



OHIO BLACK LAWS.

The House being in the Committee of the Whole on the state of the Union—

Mr. VALLANDIGHAM said:

Mr. CHAIRMAN: I avail myself of the latitude of debate in Committee of the Whole on the state of the Union, to put upon record certain facts and documents relating to a charge made against me at the last session of this Congress by the gentleman from North Carolina, [Mr. GILMER,] not now in his seat. My name, sir, has been on the list of speakers for some four weeks; and, indeed, I have waited since the beginning of the session for a convenient opportunity to reply. I had hoped that he would be present this evening; but am informed by his colleague [Mr. VANCE] that he left the city to-day. As the session is approaching its close, and lest I may have no other chance to obtain the floor, I avail myself of this opportunity to lay before the committee, and thus place upon the records of Congress, the true statement of the facts in connection with that charge. But I feel myself constrained, in the absence of the gentleman from North Carolina, to avoid anything which, by any possibility, could bear the construction of being of a personal character. The charge to which I allude is in these words, and was made in debate upon a certain contested election with which, as you are aware, sir, I was somewhat connected, the debate occurring on the 5th of February:

"If I were disposed to do any such thing, I could record his vote in the Legislative Assembly of Ohio, in which he voted to allow free negroes and other negroes to testify against white men."

The charge here, sir, is not that I voted for or against a particular bill, but that I favored the policy of negro testimony against white men. It means this, or it means nothing worthy of an answer here. To the charge thus specifically and directly made, I immediately replied:

"I never cast such a vote."

The gentleman rejoined:

"I will show by the journal that you did."

A gentleman from Georgia raised a question of

order, and the member from North Carolina continued:

"I did not intend—God forbid that I should—to hurt the feelings of any gentleman; but when this comes to be examined, it will be uncontestedly shown that I am right."

Now, I propose, Mr. Chairman, by a recurrence to the bill itself, and the debates upon it, to show uncontestedly that the member from North Carolina was utterly mistaken.

Mr. VANCE. The gentleman from Ohio spoke to me privately, and said that he was going to refer to this matter to-night, and regretted my colleague's absence. I merely suggest that, as his statement seems to be taking the turn of making an issue between my colleague [Mr. GILMER] and himself, it would be proper for him to suspend his remarks till my colleague shall be in his seat.

Mr. VALLANDIGHAM. If the gentleman from North Carolina [Mr. VANCE] will delay till I have finished what I have to say, he will see that there is really no necessity for his colleague's presence, especially as he will have the same chance to get the floor that I would have if I should now relinquish it.

Mr. VANCE. I do not apprehend that the gentleman's remarks are going to be of a personal character. He said at the outset that they would not. Still, he seems to be making an issue between my colleague and himself, and I think my colleague should be here to meet that issue.

Mr. VALLANDIGHAM. Certainly; I do make a direct issue, but I will show by the nature of the record itself that the gentleman from North Carolina, [Mr. GILMER,] in making the statement which he did, was naturally misled. I impute no improper motive to him; and, certainly, if he were present, he could have no just ground of complaint as to anything I shall say.

Sir, the debate upon the contested election having proceeded at some length, at the close I requested the chairman of the Committee of Elections [Mr. HARRIS] to withdraw the previous question, and to yield me the floor. I then said:

"I ask the unanimous consent of the House to make good now, *by reference to the journal* of the Ohio Legislature referred to, my declaration, a short time ago, that I did not

~~vote as the member from North Carolina [Mr. GILMER] stated."~~

Objection was instantly interposed, and I was precluded from establishing the facts which I design now to show conclusively to this committee. Having been thus summarily cut off in the House, I published in the *Globe*, next day, the following card:

A CARD.—Objection having been made on Friday to a statement proposed by me in the House, showing that the declaration by Mr. GILMER that I had voted in the Ohio Legislature, in 1847, for "allowing free negroes and other negroes to testify against white men," was an utter misstatement of the truth of the record, I make the correction now through the public prints.

From 1804 till 1849, there existed several statutes imposing certain disabilities upon persons of color. I was a member of the Ohio Legislature in 1845-46, and voted then against their repeal. At the next session also, (1846-47,) being a member, a bill to repeal them came up for consideration on Thursday, February 4, 1847. I was the member upon whom was devolved the business of engineering its defeat. The session was a stormy one, lasting till three o'clock the next morning. All the usual parliamentary tactics were resorted to. I am upon record thirteen times (and every time but once, when without the bar at the time the roll was called,) upon various motions, all intended, directly or indirectly, to embarrass or defeat the bill. I made five of the motions myself.

I voted against the engrossment of the bill for a third reading, the test in all legislative bodies. I voted to postpone the reading till the next day; and I voted, also, against reading it the same day. As a part of the same tactics, seeing that the bill would pass by but one or two majority, I voted for the bill on its final passage, for the purpose of moving a reconsideration the next day; but a friend of the bill, (Mr. Blake, of Medina,) moved at once to reconsider, and so forced a vote upon that question; and I voted for the reconsideration, and he against it.—(House Journal, 1846-47, p. 518-524.)

It was that vote to which the member from North Carolina referred. Was this statement fair, just, ingenuous? Let the public judge.

CLEM'T L. VALLANDIGHAM.
WASHINGTON, February 5, 1858.

Two days afterwards the gentleman from North Carolina published a card in reply, as follows:

A CARD.—In reply to Mr. VALLANDIGHAM's card of the 5th, published in the *Globe* of yesterday, permit me to say that Mr. VALLANDIGHAM does not seem to discriminate between what he actually did, and what he says was his object in doing it. He admits he gave the vote, but says his object was to reconsider, and concludes with the assertion that the relation of the vote he gave is "an utter misstatement of the truth of the record." Now, what appears of record that he did, is one thing; what he explains to have been his object for doing this, (which does not appear on the record,) is another thing. And I conceive that what actually appears may be stated, without incurring the guilt of "an utter misstatement of the truth of the record."

What is the law, which he admits he voted for with the intent to reconsider? It was for a law repealing another law of long standing; one section of which is as follows:

"SEC. 4. That no black or mulatto person or persons shall hereafter be permitted to be sworn, or give evidence, in any court of record, or elsewhere, in this State, in any cause depending on matter of controversy, where either party to the same is a white person; or in any prosecution which shall be instituted in behalf of this State against any white person."

He excuses his vote in favor of repealing the above section, on the ground that he desired his vote to be in its favor, that he might reconsider. He also says he voted thirteen times, on various motions, all intended, directly or indirectly, to embarrass or defeat the bill; but he does not state how he voted on these various motions.

By referring to the journal, page 450, it will be seen that Mr. Kaler moved to postpone the bill until the first Monday of December, a period beyond the session—yeas 33, nays 36—Mr. Vallandigham voting "nay." I would submit whether this was not a strange vote for one really opposed to the bill, and particularly for the member "upon whom was devolved the business of engineering its defeat." On page 451 of the journal, it appears Mr. Bloomfield moved to postpone the bill indefinitely—yeas 33, nays 34—

Mr. Vallandigham voting "nay." His vote on this occasion would have killed the bill. In this vote I submit respectfully, that Mr. Vallandigham was remiss, and especially so for one who was an engineer to defeat the bill. For this vote, the ingenuity of man cannot find room for the excuse that he gave it with any view to reconsider or to defeat. On the same page (451) he voted "yea" on ordering the bill to be engrossed, which was a vote in favor of the repeat, and a vote he admits to be a test vote. On the journal, page 523, the question being "Shall the bill pass?" —yeas 34, nays 30—Mr. Vallandigham voting "yea." This vote, he says, was given with a view to reconsider. Mr. Blake moved to reconsider. On this motion Mr. Hibberd demanded the previous question—yeas 32, nays 25—Mr. Vallandigham not voting at all; but it does appear on page 524, that Mr. Vallandigham, with eleven others, voted "yea" to reconsider, forty-three others voting "nay"—a result unfavorable to one working like an engineer to defeat the bill. I admit that Mr. Vallandigham, in the course of considering this bill, as appears from the journal, gave some votes that indicated that he was opposed to the bill; and had I not been stopped in the debate, I would have read all, so as to have done him ample justice, so far as the journal could show.

February 9, 1858.

JOHN A. GILMER.

At the time the charge was made in the House I immediately passed from a seat near where I now speak, to the one occupied by the gentleman from North Carolina, and there examined the journal to which he referred, and the vote which he had marked as sustaining his charge. The proceedings were of the 4th of February, 1847. The title of the bill was, "A bill to repeal certain acts therein named." It did not, from the examination I then made, occur to me at the time, and after the lapse of eleven years, that the object of the bill was not really to repeal these laws; and it is but just to the gentleman from North Carolina, that I should say that I myself, was for the time misled by the title of the bill, and supposed, although an actor in the scene, that it was a bill to repeal the acts therein named. Accordingly, in my card, written before leaving the House, I referred to it as such, but finding from the record that my purpose on the day to which he referred, was palpably to defeat the bill, I gave the facts as they were set forth in the journal of the 4th of February.

In the card published by the gentleman from North Carolina, he refers to certain votes given by me upon motions found on page 450 of the journal of 1846-7, which he states as votes against the postponement, and for the engrossment of what he calls "the bill," treating it as the same bill, and the votes as though given upon the same day.

Now, sir, it so happens, first, that neither of the bills, although bearing the same number, was a bill to repeal the black laws; second, that the bill which I strove to defeat, on the 4th, had been made a different bill, by amendment, from that which was pending on the 2d of February, and for which I voted. There is an interval of nearly one hundred pages in the journal, between the votes given for the bill on the 2d of February, and the votes given against it on the 4th. They were different bills; neither of them, I repeat, was a bill having for its purpose the direct repeal of the black laws of Ohio. Because of the gentleman's absence, I make no comments on the tone and temper of his card. I pass that by, and confine myself solely to a correction or explanation of the facts set forth in it.

Now, sir, what was the bill for which, when in one form, I voted upon the engrossment, and against which, in another form, I voted upon thir-

teen several motions intended to defeat it? It was House bill No. 204, and I hold now in my hand a copy, with the certificate of the Secretary of State, and under the impress of the "broad seal" of Ohio. The caption, title, and first section of the bill are as follows:

[No. 204.]

"**HOUSE OF REPRESENTATIVES.**

"**Mr. WHITRIDGE, on leave, introduced a bill to repeal certain acts therein named.**

"Be it enacted by the General Assembly of the State of Ohio, That the act entitled 'An act to regulate black and mulatto persons,' passed January 4, 1804; also, an act passed January 25, 1807, amendatory thereto; also, an act amendatory thereto, passed February 27, 1834, be, and the same are hereby repealed."

Now, sir, if you regard the title of the bill, if you look only to the first section of the bill, certainly it would bear the construction which the gentleman put upon it; and inasmuch as the bill itself does not appear on the journal, and as most probably the gentleman in whose behalf the member from North Carolina was speaking, did not disclose to him the true nature of that bill, naturally he was misled; but misled as others would be, who should refer, in like manner, to the "Crittenden-Montgomery" amendment of the last session, which, in its title as it went from this House to the Senate, was a bill to admit Kansas into the Union under the Lecompton constitution; and which, in its first section down to the proviso, was a bill directly to so admit her under that constitution.

The remaining sections of the bill render this point perfectly clear. The second section is as follows:

"**SEC. 2.** That before the first section of this act shall take effect, said repealing section shall be submitted to the qualified electors of this State, at their next annual October election for State and county officers; the manner of voting shall be, 'repeal,' or 'no repeal;' and which 'repeal,' or 'no repeal' shall be printed, stamped, or written, upon the bottom or back of the ballot cast at said election; the judges of election shall count and make return of said vote, for or against repeal, the same as for State officers."

Here again there is a parallel between this bill and the Crittenden-Montgomery amendment, and that bill, also, which is usually known as the "English, or conference bill." Yet my colleague from Ohio [Mr. BLISS] would not regard it just, as I know it would not be just, if any one should charge him, though by mistaking the record, with voting for the admission of Kansas into the Union under the Lecompton constitution, and undertake to establish it by referring to his vote upon the passage of the former bill on the 1st of April, 1858, reading the title and the first section down to the proviso.

I proceed. The third and remaining sections are as follows:

"**SEC. 3.** That any man voting upon said repeal or no repeal, that is not a legal voter for State officers, shall be subject to all the pains and penalties of the law made and provided for illegal voting.

"**SEC. 4.** That it shall be the duty of the clerk of the court, in each and every county in this State, to make out and forward to the Secretary of State an abstract of said vote, within ten days from the time of holding said election.

"**SEC. 5.** That it shall be the duty of the Secretary of State, on the first Monday of December, 1847, to count out and declare the votes given for repeal and against repeal; and if it shall appear that a majority of the votes cast are for repeal, then the first section of this act shall be, from and after that time, in full force; but if a majority of the

said votes cast shall be no repeal, then the first section of this act shall be null and void."

That, sir, is the bill, and the whole of it, for the engrossment of which I voted on the 2d of February, 1847; and were it pending now under the same circumstances, I should vote again as I did then; for I find myself one of the original friends of popular sovereignty, as now defined, before any one dreamed of applying it to the Territories or to the question of the admission of new States into this Union.

That bill was lost in the House; but subsequently the vote was reconsidered, and it was referred to the Committee on the Judiciary, which committee, on the 4th of February, reported it back with an amendment, changing the time for taking the vote from the second Tuesday of October, to the first Monday of April. The former, sir, is the annual State election in Ohio, at which the largest number of votes is polled, when the State is thoroughly canvassed, and when the fullest expression of the popular will can be ascertained. The latter is a mere township election, and believing that the purpose of the amendment was to gain some partisan advantage and to prevent that full expression of the public will which I desired, I voted, and by all the means within my power, strove to defeat the passage of the bill, when thus reported back upon the 4th of February.

The last vote which I gave, the one marked upon the journal by the gentleman, as I have before stated, was on the passage of the amended bill. The reason assigned by me in the card was, that I might move to reconsider. But another gentleman, anticipating me—for my purpose was that it should go over until the next day, in order that the absentees might be brought in and the bill defeated—moved forthwith to reconsider, and on the very next page I stand recorded as voting in favor of a reconsideration. Of course, the motion failed; but the next morning, as the journal will show, I came into the House and moved again to reconsider the vote, sustaining the proposition by a precedent in this House in 1832. The Speaker recognizing the force of the precedent, and the right to move to reconsider a second time, refused to entertain the motion because the bill had been sent to the Senate. I then offered the following resolution:

"Resolved, That a message be transmitted to the Senate, requesting the return of House bill (No. 204) to repeal certain acts therein named, and to leave the said repeal to the legal voters of the State, for the purpose of reconsidering the vote upon the passage of the same."

This resolution was offered for the purpose of laying a foundation for a motion to reconsider; but was laid upon the table by a vote of 34 to 30, and thus the matter ended; the bill failing, nevertheless, in the Senate.

I have said that the bills which were considered and voted upon on the 2d and 4th of February, 1847, though bearing the same number, were yet not only different bills, made so by amendments, but that the title did not express the true intent and nature of the bill; that it was not a bill to repeal what were commonly known as the black laws of Ohio.

This statement of itself, and the production of the bill, would establish the verity of my denial, and would certainly relieve me in the minds of all

fair and candid men of the charge of having voted to repeal those laws, or of having then favored, directly or indirectly, the policy of negro and mulatto testimony in court and elsewhere against white men. But all doubt, if any indeed yet remained, upon the subject, is removed by the debates upon that bill, on the 2d of February. From the regular daily report of the "Ohio Statesman," of Tuesday, February 2, 1847, I read as follows:

"OHIO LEGISLATURE, HOUSE OF REPRESENTATIVES, Tuesday, February 2, 1847.

The Black Laws.

"On motion of Mr. Whitridge, House bill 204, to repeal the black laws, submitting the question to the people, was taken up and read.

"Mr. Hines moved, ineffectually, to refer the bill to the Committee on the Judiciary.

"Mr. Turley also made an ineffectual motion to lay the bill on the table.

"Mr. Bloomhuff moved the indefinite postponement of the proposition. We wanted no popular expression in relation to this question, for all knew that the people preferred that the black laws should remain as they now stand on the statute-book.

"Mr. Vallandigham said he hardly knew how to vote on it under the circumstances. He could not but recollect that there was another question but the other day proposed to be referred to the people, and which, under the constitution, could be decided only by the people; and upon that question Mr. V. had found himself opposed by the gentleman from Preble [Mr. Whitridge] and those who supported

him in bringing forward this proposition. He could wish to see gentlemen consistent, &c.

"Mr. V. believed that the passage of this bill would result in the most effectual putting down of this vexed question for perhaps twenty years to come. It would probably fall out as the question of negro suffrage in the State of New York, where the people had given a majority of fifty thousand against it."

That sir, is the cotemporary record of the remarks which I made and reasons which I assigned for supporting that bill; and now, recurring to the charge of the gentleman from North Carolina, that "I voted to allow free negroes and other negroes to testify against white men," I here and again, in view of the facts and documents which I have produced, reiterate and reaffirm my denial, promptly made at the moment, and my declaration that "I never cast such a vote."

This, Mr. Chairman, is a full, distinct, and candid statement of the facts connected with that bill and my votes upon it. I should not have troubled even this committee with any allusion to the subject, but that it has, through no fault of mine, found its way into the record here, and because it is a misstatement, unintentional, as I have already said, of my true position. I could not consent that it should so rest, and have accordingly set forth these facts and documents so that they shall appear and remain of record here also.

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